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7 OCT 1966

MEMORANDUM FOR: Inspector General

SUBJECT : Inspector General Memo of 15 September 1966 re Agency
Regulation on Payment of Night Differential

1. We have carefully reviewed your memorandum concerning the payment of night differential at the National Photographic Interpretation Center (NPIC). To ensure that our practices are in agreement with the rest of Government, we have also called Mrs. Bruce of the Bureau of Policies and Standards, Program Systems and Instructions Division of the Civil Service Commission. She stated that payment of night differential between the hours of 6 P.M. and 6 A.M. is permissible only for regularly scheduled work. This conforms to the provisions of the Federal Employees Pay Act.

2. The regularly scheduled tour of duty for the Photographic Laboratory Branch of NPIC is Monday through Friday from 0800-1630 and 1600-0030. Any work performed on a Saturday or Sunday or after 0030 is not regularly scheduled and therefore is not entitled to night differential payment.

3. The complaints registered with the Inspector General Survey Team reportedly came from five resignees, (1 GS-6; 2 GS-5's; and 2 GS-4's) who were regularly assigned Monday through Friday, to the second shift (1600-0030) of the Photographic Laboratory Branch and were paid in accordance with Civil Service Commission and Agency regulations as regards night differential. The complaint actually dealt with non-regularly scheduled overtime activity during weekend periods and the alleged failure of NPIC to pay the night differential. It appears that in the absence of regularly scheduled tours of duty for Saturday and Sunday in NPIC, the night differential was not applicable. This problem could have application to all forty-nine personnel authorized for the Photographic Laboratory Branch as they are subject to recall for overtime work around the clock.

4. A check with the Office of Communications revealed that tours of duty are scheduled seven days a week around the clock and that the employees working on an overtime basis on any of these scheduled tours between 6 P.M. and 6 A.M. were paid night differential. The key to this whole exercise is the existence of a regularly scheduled tour of duty as opposed to irregular or occasional demands for overtime work on weekends or during the hours of 2400 to 0830.

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5. In NPIC, regularly scheduled tours of duty wherein the night differential is authorized for one or more shifts are found in:

- | | |
|---|-----------------------------|
| (a) Production Services Division | |
| Information Control Branch | 0800-1630, <u>1530-2400</u> |
| Photographic Laboratory Branch | 0800-1630, <u>1600-0030</u> |
| (b) Information Processing Division | 0800-1630, <u>1530-2400</u> |
| | <u>2400-0830</u> |
| (c) Operations Staff | |
| Signal Center | 0700-1530, <u>1530-2400</u> |
| | <u>2400-0830</u> |
| (d) Office of Assistant for Admin-
istration Security Branch | 0800-1630, <u>1600-2400</u> |
| | <u>2400-0830</u> |

25X1 6. It is the opinion of this office that the night differential regulation [] was properly applied in NPIC. It may be argued that this regulation is more stringent than the pertinent provision of the Pay Act, 5 U.S.C. 921, as indicated by the Office of General Counsel, since it permits payment of night differential to an employee only when the employee works on a regularly scheduled tour other than his own between the hours of 6 P.M. and 6 A.M., while the Pay Act permits night differential for any regularly scheduled work between 6 P.M. and 6 A.M., i.e., including overtime, if regularly scheduled.

7. It may therefore be desirable in the long run to consider the advisability of revising the Agency Regulation [] to achieve greater consistency with the Federal Statute. Under the present Agency regulation, however, night differential payments may be provided in such cases as these by the establishment of additional regularly scheduled tours of duty. The Civil Service Commission has stated that tours of duty may be scheduled in anticipation of increased workloads even though the schedule may not be actually followed in all instances. NPIC might be advised to establish on a contingency basis three 12-hour regularly scheduled tours of duty covering a minimum of three days per week as follows:

- | | |
|--------------|-----------------|
| (a) Friday | 8 P.M. - 8 A.M. |
| (b) Saturday | 8 P.M. - 8 A.M. |
| (c) Sunday | 8 P.M. - 8 A.M. |

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These schedules would be applicable to the Photographic Laboratory Branch personnel to permit accomplishment of mission material processing arising during hours not covered by the normal Center's work week of Monday through Friday.



Emmett D. Echols
Director of Personnel

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